

Serial No. 09/772,172
Art Unit 1771

REMARKS

Reconsideration of the Examiner's rejection of the claims as being indefinite in violation of 35 USC §112 is respectfully requested for the following reasons and to the extent indicated.

Usage of the term "snug" in claim 12 is thought to be inherent from the teachings of the original and amendment replacement drawings which clearly show the cover member closely encapsulating the core member. This is thought to be more than ample basis for using the term "snug".

With respect to use of the term "dark", also in claim 12, it will be noted that in the original drawings there is a specific written notation that the cover material is "black". thus, this clearly supports use of the term "dark" in claim 12 as well as use of the term "black" in claim 14.

With respect to use of the term "finely textured" in claim 12, the term "finely" has been deleted. Clearly there is a basis for use of the term "textured" since this term appears in paragraph [0034] in the published application.

The terms "entire" and "reversible" as they appear in claim 12 are thought to be supported by the description of the cover material as it appears in paragraph [0034] in the published application. Specifically, this paragraph indicates that the cover is textured to produce a non-slip surface, the obvious meaning being that the entire cover is so textured. There is nothing in the description to suggest that the texturing appears on only a part of the cover. It is clear that if the entire cover is textured, it makes no difference which side of the mat is placed upwardly because both sides are identical, and hence it is inherent that the mat is reversible.

With respect to the use of "urethane foam" in claim 15, the term "urethane" has now been deleted.

Turning now to the rejections based on prior art, and referring specifically to claim 12 as now amended, it is submitted that any rejection based on Onderak et al. as the primary reference is improper and should be withdrawn. First of all, applicant's invention relates to an ice breaker mat, whereas Onderak is concerned with an anti-skid floor covering for use in galleys and entrances of aircraft, etc. While this in itself does not make Onderak an

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improper reference, the intended purposes of these two inventions are entirely different, and the objectives of the inventions are achieved by entirely different structural means. Specifically, Onderak does not teach or suggest "a substantially flat compressible core". Quite to the contrary, both the wear layer in Onderak and the foam inner layer are formed to provide a plurality of uniformly spaced cells as clearly illustrated and described in Onderak. The Examiner refers to column 2, lines 25 through 29, in Onderak as support for the teaching that "the wear layer is in the form of a flat piece of material joined with the foam layer to form a mat". However, if one carefully reads this portion of the Onderak patent, it will be clear that the wording cited by the Examiner refers to the materials before the subsequent vacuum forming operation which provides the aforesaid cells in the wear level and in the foam layer. Nor does Onderak even remotely suggest the specifically claimed structure of applicant's mat which comprises the outer cover having a rounded folded edge defining upper and lower surfaces of substantially similar size with the core member positioned therebetween, and with the peripheral edges of the cover, except for the folded edge, being sealed together to provide a snug, airtight enclosure for the core. The amended language in claim 12 is clearly structural in nature, and does not define a method, as stated by the Examiner in the most recent Office Action.

The Examiner has recognized that Onderak does not teach or suggest the compressibility of its floor covering in sub-freezing temperatures, which is understandable, because the floor covering of Onderak would most likely not be exposed to such temperatures. It is purely conjecture on the part of the Examiner that the specific PVC formulation in Onderak and the specific polyurethane foam core in Onderak would remain compressible in sub-freezing temperature. Certainly it is not correct for the Examiner to state that Onderak "teaches the same PVC wear level layer and the same polyurethane foam core" as is used by applicant.

With respect to applicant's claimed feature that the cover is of a dark, sun-absorbing color (claim 12) or is specifically black (claim 14), it is contended that Onderak, taken singly or in combination with the Cooke et al patent, is not suggestive of this particular feature of applicant's mat, since as aforesaid, it is the outdoor use of applicant's mat as an icebreaker that benefits from the black or dark coloring thereof. There is no reason in

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Onderak for using a black or dark coloring, and hence it would not be obvious in view of Cooke to make the Onderak floor covering in a black or dark color.

It is therefore submitted that, for the reasons above stated, amended claim 12 patentably defines over Onderak taken singly or in combination with the Cooke or German patents.

Claim 13 is allowable for the reasons discussed above in connection with base claim 12, but in addition, the use of an adhesive to secure the foam core layer to the cover layer is not shown by Onderak, as the Examiner concedes, and is also not suggested by the cited Kerr et al reference. The Examiner specifically refers to column 2, lines 10 through 16 of Kerr as suggesting use of such an adhesive, but that portion of Kerr is actually discussing the cited Brunner reference which does not show an outer cover that completely encapsulates the core portion. Expressed differently, one might think that since the outer cover in applicant's invention snugly and completely encapsulates the foam core, no adhesion between the cover and core would be necessary. However, applicant has found that use of such adhesion in his mat prevents any undesirable shifting or lateral movement of the core within the cover. Neither Kerr nor Brunner are thought to be anticipatory of this feature of applicant's invention.

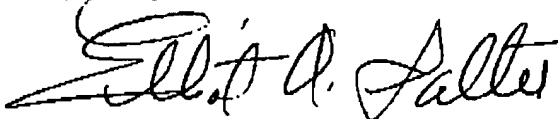
Claim 16 is also thought to be allowable for the reasons above discussed in connection with base claim 12, but it will be noted that claim 16 now specifically recites the fact that the rounded front edge of the mat is located adjacent the front edge of the step on which the mat is mounted. This is important because it facilitates securement of the mat to the step by fastening means extending through the peripheral sealed portions of the mat. Also, there is less likelihood of tripping over the front edge of the mat if the rounded folded edge is forwardly disposed near the edge of the step. Support for this feature is found in paragraph [0035] in applicant's published application.

For all of the above reasons, the claims as now presented patentably define over the references of record, taken singly or in any valid combination thereof, and hence the application is thought to be ready for issue, which action is courteously solicited.

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Respectfully submitted,



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